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January 14, 2020

***Via E-filing and hand delivered***

The Honorable John H. Guthmann  
Ramsey County District Court  
1470 Ramsey County Courthouse  
15 Kellogg Boulevard West  
St. Paul, MN 55102

**Re: Ramsey County Court File No. 62-cv-19-4626**

Dear Judge Guthmann:

As discussed in the conference call with the Court on Friday, January 10, 2020, all parties in this matter have agreed that Kevin Pierard's testimony will be provided at the hearing on January 21, 2020 by way of live stream testimony from New Mexico, where Mr. Pierard resides.

In the conference call of December 6, 2019, the Court stated that should Mr. Pierard provide his testimony other than by video deposition in New Mexico, the court would assume that Relators "will have prepared for me whatever order you think you or he needs to protect himself at that time." (Telephone Conference Tr. 18:15-21 (Dec. 6, 2019)). Mr. Pierard has requested an order to ensure that the protection provided in the Court's Order of December 8, 2019 ("Order") applies equally to his live stream testimony. The parties are in agreement as to this proposed order.<sup>1</sup>

In light of the agreement among the parties as to the method of Mr. Pierard's testimony and consistent with the Court's Order provided to protect Mr. Pierard in testifying in these proceedings, Relators request an order explicitly applying the terms of the Order to Mr. Pierard's appearance as a witness on January 21, 2020 to provide testimony live streamed from New Mexico and requiring Relators to issue and serve a subpoena ordering such appearance.

A proposed order is attached so that Relators may promptly serve a subpoena consistent with Court's Order protecting Mr. Pierard the method by which the parties have agreed to obtain Mr. Pierard's testimony.

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<sup>1</sup> After discussions among counsel, the parties agreed to add a sentence stating, "All parties, Mr. Pierard, and the U.S. Environmental Protection Agency, are entitled to have counsel present in New Mexico at the time and location of Mr. Pierard's testimony."

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Respectfully submitted,

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Enclosure

cc: Counsel of Record (via Odyssey)